

Message Text

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SUBJECT: IAEA-SWITZERLAND NEGOTIATION OF SAFEGUARDS AGREEMENTS

1. VON SCHENCK, SWISS ALT. RESREP, HAS INFORMED MISOFFS THAT SWISS INITIATING NEGOTIATIONS WITH IAEA OF TWO SAFEGUARDS AGREEMENTS, BOTH TO BE CONSIDERED BY IAEA BOARD GOVERNORS IN JUNE 1974.

2. ONE AGREEMENT WOULD BE NPT SAFEGUARDS AGREEMENT IN ACCORD INFCIRC/153, WHICH WOULD CONTAIN STANDARD PROVISION FOR ENTRY INTO FORCE WHEN AGENCY RECEIVES WRITTEN NOTIFICATION FROM SWITZERLAND THAT STATUTORY AND CONSTITUTIONAL REQUIREMENTS HAVE BEEN MET. SWISS WOULD PRESUMABLY MAKE CLEAR THAT NPT RATIFICATION WOULD BE ONE SUCH REQUIREMENT.

3. OTHER AGREEMENT WITH IAEA WOULD BE "UNILATERAL SUBMISSION" TO IAEA SAFEGUARDS OF EITHER (A) ALL NUCLEAR MATERIAL, IN SWITZERLAND, INCLUDING THAT SUPPLIED PURSUANT TO US-SWITZERLAND BILATERAL AGREEMENT FOR COOPERATION (AND EXPLICITLY REPLACING, TO THAT EXTENT, US-IAEA-SWITZERLAND TRILATERAL SAFEGUARDS AGREEMENT) OR (B) ALL NUCLEAR MATERIAL IN SWITZERLAND APART FROM THAT SUBJECT TO US-IAEA-SWITZERLAND TRILATERAL.

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4. RATIONALE OF TWO-FOLD APPROACH, ACCORDING TO IAEA INSTPECTOR

GENERAL ROMETSCH (SWISS NATIONAL) IS (A) TO AVOID UNCERTAINTY, FROM SAFEGUARDS STANDPOINT, IN SWISS ABILITY TO IMPORT NUCLEAR EQUIPMENT AND FUEL FROM NPT PARTIES PENDING SWISS ACCESSION TO NPT, WHICH LIKELY TO REQUIRE NATIONAL REFERENDUM AND THUS ENTAIL CONSIDERABLE FURTHER DELAY AND (B) DEMONSTRATE, IN INTEREST OF GAINING APPROVAL OF TREATY ACCESSION, THAT NEGOTIATION NPT SAFEGUARDS WILL NOT RPT NOT POSE PROBLEM.

5. ACCORDING TO VON SCHENCK, SWISS WOULD PROPOSE FIVE-YEAR TERM FOR UNILATERAL SUBMISSION, IN ORDER AVOID NECESSITY OF PARLIAMENTARY APPROVAL, AND WILL SEEK PROVISION IN UNILATERAL SUBMISSION (OF EITHER LIMITED OR FULL SCOPE), RE EXPORTS OF SAFEGUARDED MATERIAL, SIMILAR TO SECTION 15 IN US-IAEA-SWITZERLAND TRILATERAL. (ALTHOUGH NOT MENTIONED BY VON SCHENCK, PROPOSED PROVISION WOULD LIKELY PERMIT SUCH EXPORT OF OTHER MATERIALS AND EQUIPMENT, AS WELL.) UNDER THAT PROVISION, SAFEGUARDS TERMINATE UPON EXPORT FROM SWITZERLAND. COMMENT: IT WILL BE RECALLED THAT U.S. AGREED TO THAT PROVISION ONLY BECAUSE ARTICLE IX A(3) OF THE US-SWISS BILATERAL REQUIRES SWISS OBTAIN U.S. AGREEMENT TO TRANSFER OF MATERIAL, EQUIPMENT AND DEVICES SUPPLIED BY U.S. OR SPECIAL NUCLEAR MATERIAL PRODUCED THROUGH USE OF SUCH SUPPLIED MATERIAL, ETC. PUBLICLY, U.S. JUSTIFIED SECTION 15 OF TRILATERAL ON BASIS OF EXPECTATION THAT TRILATERAL WOULD SOON BE REPLACED, TO LARGE EXTENT, BY SWISS NPT SAFEGUARDS AGREEMENT. SEDEN-IAEA-US TRILATERAL ONLY OTHER INSTANCE IN WHICH COMPARABLE PROVISION WAS PERMITTED AND JUSTIFIED ON SAME BASIS.

6. VON SCHENCK STATED THAT QUESTION OF SCOPE OF UNILATERAL SUBMISSION STILL UNDER CONSIDERATION AND ASKED WHETHER U.S. HAS ANY PREFERENCE RE RETAINING EXISTING US-IAEA-SWITZERLAND TRILATERAL. MISOFFS REPLIED THAT INITIAL PERSONAL REACTIONS WERE THAT U.S. WOULD PREFER KEEP TRILATERAL INTACT, BUT UNDERTOOK TO SEEK WASHINGTON'S VIEWS.

7. PROPOSED SWISS DOUBLE-PLAY APPEARS TO MISSION TO ATTEMPT SET UP SITUATION IN WHICH BOARD WOULD BE HARD-PRESSED TO DENY EXTENSION OF SPECIAL PROVISIONS (PERMITTING EXPORT OF IAEA-SAFEGUARDED NUCLEAR MATERIAL, ETC., WITHOUT REQUIRING SUCH SAFEGUARDS IN RECIPIENT STATE) TO ALL NUCLEAR MATERIAL IN SWITZERLAND. TACTIC OF PLACING TEXT OF PROSPECTIVE NPT SAFEGUARDS AGREEMENT BEFORE LIMITED OFFICIAL USE

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BOARD AT SAME TIME WOULD APPEAR DESIGNED TO LEND WEIGHT TO ARGUMENT THAT UNILATERAL SUBMISSION ONLY STOP-GAP TRANSITIONAL MEASURE TO COVER PERIOD BEFORE NPT ACCESSION. IN FACT, HOWEVER, UNILATERAL SUBMISSION WOULD PRESERVE FLEXIBILITY FOR SWISS TO EXPORT, AT LEAST DURING NEXT FIVE YEARS, NUCLEAR MATERIAL, OTHER THAN THAT SUBJECT TO ARTICLE IX A(3) OF US-SWISS BILATERAL, WITHOUT REQUIRING SAFEGUARDS IN RECIPIENT COUNTRY. THIS, OF COURSE, WOULD APPEAR TO BE INCONSISTENT WITH (A) OBJECTIVE OF THE

ZANGGER COMMITTEE EXERCISE, INITIATED THREE YEARS AGO BY SWITZERLAND, WHICH HOPEFULLY WILL SOON BE CONCLUDED AND (B) OBJECTIVE OF DURATION-TERMINATION EXERCISE WHICH WAS OUTGROWTH OF ZANGGER COMMITTEE AND IN WHICH SWITZERLAND PARTICIPATED.

8. RE SPECIFIC QUESTION RAISED BY VON SCHENCK, MISSION PERCEIVES NOT DIFFERENCE IN EFFECT WITH RESPECT TO U.S.-SUPPLIED MATERIAL, ETC., OR SPECIAL NUCLEAR MATERIAL PRODUCED THEREFROM, SINCE U.S. RIGHTS TO PRIOR AGREEMENT TO EXPORT, UNDER ARTICLE IX A(3) OF US-SWISS BILATERAL WOULD REMAIN INTACT. WE ARE CONCERNED, HOWEVER, THAT UNDER SWISS UNILATERAL SUBMISSION, OF EITHERSCOPE DESCRIBED PARA 3 ABOVE, SWITZERLAND WOULD BE FREE TO EXPORT WITHOUT REQUIRING SAFEGUARDS ALL MATERIAL, ETC. SUPPLIED BY STATE OTHER THAN U.S. PRESUMABLY WITHOUT EVEN AGREEMENT FROM SUPPLYING STATE. WE WOULD EXPECT THAT SUCH PROPOSAL WOULD BE SUBJECT OF CRITICISM BY BOARD MEMBERS AND ARE UNCERTAIN IT WOULD BE APPROVED, NOTWITHSTANDING SWISS PLOY OF ASKING CONCURRENT BOARD APPROVAL OF DORMANT NPT SAFEGUARDS AGREEMENT.

9. WE THEREFORE RECOMMEND THAT SWISS BE INFORMED THAT, IN OUR JUDGEMENT, THEY WOULD BE ILL-ADVISED TO BRING BEFORE BOARD ANY NEW AGREEMENT, NECESSARILY BASED UPON INFCIRC/66, BUT CONTAINING PROVISIONS FOR TERMINATION OF SAFEGUARDS UPON EXPORT OF NUCLEAR MATERIAL. WHILE USG MIGHT FIND IT AWKWARD OPPOSE SUCH AN AGREEMENT, IN LIGHT OF TRILATERAL, WE SUGGEST SWISS SHOULD CLEARLY BE MADE TO UNDERSTAND THAT USG WOULD NOT RPT NOT ENCOURAGE ANY SUCH NEW AGREEMENT.

10. GUIDANCE REQUESTED UPON WHICH TO BASE REPLY TO SWISS.
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